

LATIONS

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and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority.

GERALD R. FORD

**Regulations**

subchap. M.

**Foreign policy**

actions of Secretary of State

Chapter shall be construed to in-  
s of the Secretary of State.

State for supervision and  
sales

President, the Secretary of State,  
states activities abroad, such as  
ance, and food for freedom, shall  
supervision and general direction  
apter, including, but not limited  
be a sale to a country and the  
shall be delivery or other per-  
to the end that sales and exports  
states activities and the foreign  
served thereby.

atives of United States

appropriate procedures to assure  
of the United States Government  
ship of the Chief of the United  
Chief of the diplomatic mission  
ons of such representatives per-  
h political and economic consid-  
company such recommendations

68, 82 Stat. 1322; Pub.L. 94-329,  
90 Stat. 745.

**Note**

et out as a note under section 2751 of  
his title.

**Legislative History.** For legislative  
history and purpose of Pub.L. 90-629,  
see 1968 U.S.Code Cong. and Adm.News,  
p. 4474. See, also, Pub.L. 94-329, 1976  
U.S.Code Cong. and Adm.News, p. 1378.

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ARMS EXPORT CONTROL

22 § 2753

**§ 2753. Eligibility for defense services or defense articles****Prerequisites for consent by President; report to Congress**

(a) ~~No defense article or defense service shall be sold by the United States Government under this chapter to any country or international organization unless—~~

(1) the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) ~~the country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it to anyone not an officer, employee, or agent of that country or international organization and not to use or permit the use of such article or related training or other defense service for purposes other than those for which furnished unless the consent of the President has first been obtained;~~

(3) the country or international organization shall have agreed that it will maintain the security of such article and will provide substantially the same degree of security protection afforded to such article by the United States Government; and

(4) the country or international organization is otherwise eligible to purchase defense articles or defense services.

~~In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country. In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President. The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.~~

(b) Repealed. Pub.L. 95-92, § 15, Aug. 4, 1977, 91 Stat. 622

**22 § 2753****FOREIGN RELATIONS****Ch. 39**

**Termination of credits, guaranties or sales; report of violation by President; national security exception; conditions for reinstatement**

(c)(1)(A) No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country under this chapter as hereinafter provided, if such country uses defense articles or defense services furnished under this chapter, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 2754 of this title or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 2754 of this title for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this chapter as hereinafter provided, if such country uses defense articles or defense services furnished under this chapter, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 2754 of this title or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 2754 of this title, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolu-

## GN RELATIONS

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... or sales; report of violation by Pres-  
... conditions for reinstatement

...ing participations in credits) may be  
... be extended for any foreign country  
... after provided, if such country uses  
... services furnished under this chapter,  
... substantial violation (either in terms  
... the gravity of the consequences regard-  
... ) of any agreement entered into pur-  
... using such articles or services for a  
... section 2754 of this title or, if such  
... articles or services may only be used  
... in those authorized under section 2754  
... not authorized under such agreement;  
... cles or services to, or permitting any  
... s by, anyone not an officer, employee,  
... try without the consent of the Presi-  
... tain the security of such articles or

...ies pursuant to previous sales may  
... foreign country under this chapter as  
... ntry uses defense articles or defense  
... chapter, or any predecessor Act, in  
... terms of quantity or in terms of the  
... gardless of the quantities involved)  
... pursuant to any such Act by using  
... purpose not authorized under section  
... ment provides that such articles  
... purposes more limited than those  
... of this title, for a purpose not au-

...t to the Congress promptly upon the  
... violation described in paragraph (1)  
... rred.

...emed to be ineligible under subpara-  
... of this subsection, or both subpara-  
... paragraph in the case of a violation  
... h, if the President so determines  
... Congress, or if the Congress so de-

...ination by the President of ineligi-  
... of paragraph (1) of this subsection,  
... nt to previous sales may be made  
... ng to the Congress that a termina-  
... nt adverse impact on United States  
... pts or has adopted a joint resolu-

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## ARMS EXPORT CONTROL 22 § 2753

tion pursuant to subparagraph (A) of this paragraph with respect  
to such ineligibility.

(4) A country shall remain ineligible in accordance with para-  
graph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased;  
and

(B) the country concerned has given assurances satisfactory  
to the President that such violation will not recur.

Submission of written certification to Congress; contents;  
classified material; effective date of consent; trans-  
fers not subject to procedures

(d)(1) The President may not give his consent under paragraph  
(2) of subsection (a) of this section or under the third sentence of  
such subsection to a transfer of a defense article, or related training  
or other defense service, sold under this chapter and may not give  
his consent to such a transfer under section 2314(a)(1) or 2314(a)  
(4) of this title unless the President submits to the Speaker of the  
House of Representatives and the Committee on Foreign Relations  
of the Senate a written certification with respect to such proposed  
transfer containing—

(A) the name of the country or international organization  
proposing to make such transfer,

(B) a description of the defense article or related training or  
other defense service proposed to be transferred, including the  
original acquisition cost of such defense article or related train-  
ing or other defense service,

(C) the name of the proposed recipient of such defense ar-  
ticle or related training or other defense service,

(D) the reasons for such proposed transfer, and

(E) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this subsection  
shall be unclassified except that information regarding the dollar  
value and number of defense articles, or related training or other  
defense services, proposed to be transferred may be classified if  
public disclosure thereof would be clearly detrimental to the securi-  
ty of the United States.

(2) Unless the President states in the certification submitted  
pursuant to this subsection that an emergency exists which requires  
that consent to the proposed transfer become effective immediately  
in the national security interests of the United States, such con-  
sent shall not become effective until 30 calendar days after the date  
of such submission and such consent shall become effective then  
only if the Congress does not adopt, within such 30-day period, a  
concurrent resolution disapproving the proposed transfer.

(3) This subsection shall not apply—

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(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C) to cooperative cross servicing arrangements among members of the North Atlantic Treaty Organization.

*Gov 9*  
**Transfers without consent of President; report to Congress**

(e) If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 2314 of this title, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

**Sales, credits, and guaranties to countries granting sanctuary to international terrorists; prohibitions; ineligibility period; report by President for continuation**

(f)(1) Unless the President finds that the national security requires otherwise, he shall terminate all sales, credits, and guaranties under this chapter to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may not thereafter make or extend sales, credits, or guaranties to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for sales, credits, and guaranties pursuant to this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

(2) If the President finds that the national security justifies a continuation of sales, credits, or guaranties to any government described in paragraph (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

Pub.L. 90-629, Ch. 1, § 3, Oct. 22, 1968, 82 Stat. 1322; Pub.L. 91-672, § 1, Jan. 12, 1971, 84 Stat. 2053; Pub.L. 93-189, § 25(2), Dec. 17, 1973, 87 Stat. 729; Pub.L. 93-559, § 45(a)(1), Dec. 30, 1974, 88 Stat. 1813; Pub.L. 94-329, Title II, §§ 203(a), 204(a), (b)(1), Title III, § 304(b), June 30, 1976, 90 Stat. 735, 736, 754, 755; Pub.L. 95-92, §§ 15-18, Aug. 4, 1977, 91 Stat. 622.

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enance, repair, or overhaul defense articles or other defense articles used in the transfer will not result in any final specifications, in the military articles and services to be maintained,

s of defense articles for the sole nance, repair, or overhaul; or ricing arrangements among mem-reaty Organization.

## President; report to Congress

ny information that a transfer of ining or other defense service, has as required under this section or he shall report such information House of Representatives and the the Senate.

countries granting sanctuary to  
violations; ineligibility  
t for continuation

nds that the national security re-ate all sales, credits, and guaran-vernment which aids or abets, by-tion to, any individual or group-ternational terrorism. The Presi-xtend sales, credits, or guaranties-of the one year period beginning-cept that if during its period of-guaranties pursuant to this sec-ets, by granting sanctuary from-al or group which has committed-such government's period of in-additional year for each such in-

the national security justifies a-guaranties to any government de-report such finding to the Speaker-and the Committee on Foreign Re-

1968, 82 Stat. 1322; Pub.L. 91-53; Pub.L. 93-189, § 25(2), Dec. 59, § 45(a)(1), Dec. 30, 1974, 88 §§ 203(a), 204(a), (b)(1), Title t. 735, 736, 754, 755; Pub.L. 95-22.

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## ARMS EXPORT CONTROL

## 22 § 2753

## Historical Note

**1977 Amendment.** Subsec. (b). Pub.L. 95-92, § 15, struck out subsec. (b) which related to prohibitions on sales, etc., to countries seizing or fining American fishing vessels for fishing in waters more than twelve miles from their coastlines.

Subsec. (d). Pub.L. 95-92, §§ 16, 17, re-designated existing provisions as par. (1) and, as so redesignated, struck out "30 days prior to giving such consent," preceding "the President submits", redesignated subpars. (1) to (5) as (A) to (E), respectively, and added pars. (2) and (3).

Subsec. (f). Pub.L. 95-92, § 18, added subsec. (f).

**1976 Amendment.** Subsec. (a). Pub.L. 94-329, §§ 203(a), 204(b)(1), inserted in par. (2) "or related training or other defense service" following "article" wherever appearing and struck out provisions following par. (4) relating to the President's notification of his consent to transfer war implements to another country, in writing, to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate indicating his justification for the transfer and the particular war implement transferred.

Subsec. (c). Pub.L. 94-329, § 304(b)(1), provided that the President, by so stating in writing to Congress, or Congress, by joint resolution, terminate credits, guaranties or sales upon determining a violation, permitted cash sales and deliveries pursuant to previous sales to be made if the President certifies in writing to Congress that termination thereof would be adverse to national security unless Congress adopts or has adopted a joint resolution determining such eligibility, and specified conditions for reinstatement of eligibility.

Subsec. (d). Pub.L. 94-329, §§ 204(a), 304(b)(2), added subsec. (d). Former subsec. (d), which related to conditions for reinstatement after a determination of ineligibility, was repealed by Pub.L. 94-329, § 304(b)(2), and is now covered by subsec. (c).

Subsec. (e). Pub.L. 94-329, §§ 204(a), 304(b)(2), added subsec. (e).

**1974 Amendment.** Subsec. (d). Pub.L. 93-559 deleted provision respecting furnishing of sophisticated weapons to

countries in violation of agreements pursuant to subsec. (a)(2) of this section, section 2314(a) of this title, or other similar provisions and substituted "in accordance with subsection (c) of this section" for "in accordance with this subsection".

**1973 Amendment.** Subsec. (a). Pub.L. 93-189, § 25(2)(A) to (C), in par. (2) added the requirement not to use or permit the use of such articles for purposes other than those for which furnished, redesignated former par. (3) as (4), added a new par. (3), and following par. (4), as so redesignated, added provisions relating to Presidential consideration of requests prior to consent under par. (2).

Subsecs. (c), (d). Pub.L. 93-189, § 25(2)(1), added subsecs. (c) and (d).

**1971 Amendment.** Subsec. (b). Pub.L. 91-672 extended the retaliatory measures against countries seizing, taking custody or fining American vessels for fishing outside of twelve miles of their coast, to sales, credits, guaranties, and laid down a period of one year as the extent of such prohibition, and added assurances of future restraint received from such countries as an additional ground for waiver, and provided exception that the prohibition will not apply in cases governed by international agreements to which the United States is a party.

**Effective Date of 1976 Amendment.** Section 203(a) of Pub.L. 94-329 provided in part that the amendment to subsec. (a)(2) of this section by Pub.L. 94-329 shall take effect July 1, 1976.

**Effective Date.** Section effective July 1, 1968, see section 41 of Pub.L. 90-629, set out as a note under section 2751 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 90-629, see 1968 U.S.Code Cong. and Adm.News, p. 4474. See, also, Pub.L. 91-672, 1970 U.S.Code Cong. and Adm.News, p. 6054; Pub.L. 93-189, 1973 U.S.Code Cong. and Adm.News, p. 2806; Pub.L. 93-559, 1974 U.S.Code Cong. and Adm.News, p. 6674; Pub.L. 94-329, 1976 U.S.Code Cong. and Adm.News, p. 1378; Pub.L. 95-92, 1977 U.S.Code Cong. and Adm.News, p. 978.

## West's Federal Forms

Sentence and fine, see § 7531 et seq.

## FOREIGN RELATIONS 44

## EXECUTIVE ORDER NO. 11958

11958, as amended by Ex.Ord. No. 12118, Feb. 6, 1979, 44 F.R. 53, Sept. 29, 1979, 44 F.R. 56678; Ex.Ord. No. 12210, Apr. 13; Ex.Ord. No. 12321, Sept. 14, 1981, 46 F.R. 46109; May 24, 1982, 47 F.R. 22933; Ex.Ord. No. 12423, May 26,

## ADMINISTRATION OF CHAPTER

Functions. The following are the functions of the President by Executive Order (22 U.S.C. 2751 et seq.) referred to as the "Chapter":

(a) Those under Sections 42(c) and (f) of the Act [section 2791(c) and (f) of this title] to the Secretary of Defense. The Secretary of Defense shall obtain the concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act [section 2791(c) of this title].

(b) Those under Sections 52(b) and 53 of the Act [sections 2795a(b) and 2795b of this title] to the Secretary of Defense.

(c) Those under Sections 61 and 62(a) of the Act [sections 2796 and 2796a(a) of this title] to the Secretary of Defense.

Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, and the Director of the Arms Control and Disarmament Agency, on matters pertaining to their responsibilities.

with foreign policy

main volume for text of (a)

Secretary of State for supervision and direction of sales and leases of the President, the Secretary of State, taking into account activities abroad, such as military assistance, economic assistance, sales, leases, and exports under this chapter, including, but not whether there shall be a sale to a country and the amount shall be a lease to a country, and whether there shall be finance under such sale, lease, or export, to the end that sales, integrated with other United States activities and the foreign interests is best served thereby.

[See main volume for text of (c)]

Title I, § 109(b) (1), Dec. 29, 1981, 95 Stat. 526.

subsec. (b). Pub.L. 97-113, substituted "sales, leases, and exports" for "sales, leases, and exports" and "such" for "whether" following "country," following

Legislative History. For legislative history and purpose of Pub.L. 97-113, see 1981 U.S. Code Cong. and Adm. News, p. 2404.

defense services or defense articles

by President; report to Congress

defense service shall be sold or leased by the United States chapter to any country or international organization unless—

main volume for text of (1) to (3)

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(4) the country or international organization is otherwise eligible to purchase or lease defense articles or defense services.

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country. In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President. The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

[See main volume for text of (b) and (c)]

(d) Submission of written certification to Congress; contents; classified material; effective date of consent; report to Congress; transfers not subject to procedures

(1) The President may not give his consent under paragraph (2) of subsection (a) of this section or under the third sentence of such subsection, or under section 2314(a) (1) or 2314(a) (4) of this title, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at \$14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at \$50,000,000 or more, unless the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

[See main volume for text of (A)]

(B) a description of the article or service proposed to be transferred, including its acquisition cost,

(C) the name of the proposed recipient of such article or service,

[See main volume for text of (D) and (E)]

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except that information regarding the dollar value and number of articles or services proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2) (A) Except as provided in subparagraph (B), unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not adopt, within such 30-day period, a concurrent resolution disapproving the proposed transfer.

(B) In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Congress does not adopt, within such fifteen-day period, a concurrent resolution disapproving the proposed transfer.

(3) The President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at \$14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at \$50,000,000 or more, the export of which has been licensed or approved